IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 216 OF 2006
IN
CRIMINAL APPLICATION NO. 6513 OF 2005
IN
CRIMINAL APPLICATION NO. 4392 OF 2004

Shri S.G. Lagu ....Applicant.

V/s

Union of India and Ors. ....Respondents.

Mr. Chetan Akerkar for the applicant.
Mr. Y.S. Shinde, APP for the State.
Mr. K.B. Rao with Mr. D.N. Salvi, Spl. PP for the Union of India

---

CORAM: V.M. KANADE, J.

DATE: 29th March, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned Counsel for the Union of India.

2. The applicant is seeking a direction from this Court directing the Passport Authorities to issue fresh Passport without making any endorsement either regarding the notification bearing No. G.S.R. 570(E) dated 25/8/1993 on the Passport or any endorsement of any nature as to the pendency of criminal case against the applicant.

3. A criminal complaint was filed against the members of the Housing Society where the applicant was a Treasurer and it was alleged that the flat was transferred without complying with the necessary legal formalities after the death of the mother of the complainant and, instead of transferring the share certificate in the name of all the heirs, it was transferred in the name of accused No.5 who was one of the relatives of the complainant. The order was passed by the Magistrate issuing process after the report was submitted by the police. The applicant has challenged the said order passed by the Magistrate by filing Criminal Application No. 4392 of 2004 which was admitted and the further proceedings in the trial court have been stayed by an order passed by this Court. Thereafter, the applicant has preferred an application seeking permission to go abroad which was also granted. However, when he made an application to the Passport Authorities, a Passport was issued with an endorsement that criminal case is pending against him. Being aggrieved by the said endorsement made by the Passport Authorities, he has preferred this criminal application seeking a direction that the said endorsement may be removed. The learned Counsel appearing on behalf of the applicant has relied upon the judgment of this Court in the case of Deepak

Dwarkasingh Chhabria Vs. Union of India and another reported in **AIR 1997 Bombay 181**. He submitted that the learned Single Judge of this Court had, after examining the notification which had been issued by the Government, directed that the Passport Authorities may issue the Passport without making any endorsement subject to the terms and conditions mentioned in the notification. The learned Counsel for the Union of India invited my attention to para 10 of the said judgment and pointed out that the said direction was given since no criminal case was pending against the applicant in the said case.

4. In my view, since the proceedings of the private complaint have been stayed by the order passed by this Court, during the pendency of the Criminal Application, the Passport Authorities may not make any endorsement on the Passport about pending criminal case. The Passport, however, may be issued subject to the terms and conditions mentioned in the notification bearing No. G.S.R. 570(E) dated 25/8/1993.

5. In the result, this application is allowed. The Passport Authorities may issue fresh Passport to the applicant without making any observations either regarding the said notification or making any

endorsement of any nature regarding the pendency of the criminal case against the applicant on the Passport issued to the applicant subject to terms and conditions mentioned in the notification bearing No. G.S.R. 570(E) dated 25/8/1993.

6. With the above directions, this Criminal Application is disposed of.

7. C.C. expedited.

V.M. KANADE, J.